

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

ANTHONY J. FALCI
12 Klauder Road
Tonawanda, New York 14223

Plaintiff,

SUMMONS

vs.

Index No.: 2020-_____

SPEEDWAY LLC d/b/a
SPEEDWAY
500 Speedway Drive
Enon, Ohio 45323

Defendant.

TO THE ABOVE-NAMED DEFENDANT:

YOU ARE HEREBY SUMMONED, to answer the Complaint in this action and serve a copy of your Answer, or if the Complaint is not served with this Summons to serve a Notice of Appearance on the Plaintiff's attorneys within twenty (20) days after the service of this Summons, exclusive of the day of service, where service is made by delivery upon you personally within the State, or within thirty (30) days after the completion of service where service is made in any other manner. In case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the Complaint.

The trial of this action is to be held in the County of Erie based on the residence of the Plaintiff.

DATED: Buffalo, New York
October 5, 2020

ANDREWS, BERNSTEIN, MARANTO & NICOTRA, PLLC

By: /s/ Thomas P. Kotrys
Thomas P. Kotrys, Esq.
Attorneys for Plaintiff
420 Franklin Street
Buffalo, New York 14202
Telephone (716) 842-2200

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

ANTHONY J. FALCI
12 Klauder Road
Tonawanda, New York 14223

Plaintiff,

COMPLAINT

vs.

Index No.: 2020-_____

SPEEDWAY LLC d/b/a
SPEEDWAY
500 Speedway Drive
Enon, Ohio 45323

Defendant.

The Plaintiff, ANTHONY J. FALCI, by his attorneys, ANDREWS, BERNSTEIN, MARANTO & NICOTRA, PLLC, for his complaint against the Defendant, alleges as follows:

1. That upon information and belief, and at all times hereinafter mentioned, Plaintiff, ANTHONY J. FALCI was and is a resident of the Town of Tonawanda, County of Erie and State of New York.
2. That upon information and belief, and at all times hereinafter mentioned, Defendant, SPEEDWAY LLC, was and is a foreign limited liability company duly licensed to transact business within the State of New York.
3. That upon information and belief, and at all times hereinafter mentioned, Defendant SPEEDWAY LLC was transacting business within the State of New York under the assumed name SPEEDWAY.
4. That upon information and belief, and at all times hereinafter mentioned, Defendant, SPEEDWAY LLC, was and is transacting business within the State of New York with an office located at 535 Kenmore Avenue, Tonawanda, New York.

6. That upon information and belief, and at all times hereinafter mentioned, Defendant, SPEEDWAY LLC, owned, used or possessed real property situated within the State of New York.

7. That upon information and belief, and at all times hereinafter mentioned, Defendant, SPEEDWAY LLC and/or AMCAP, INCORPORATED, owned the premises located on or about 535 Kenmore Avenue, Tonawanda, New York.

8. That upon information and belief, and at all times hereinafter mentioned, Defendant, SPEEDWAY LLC, through its agents, servants and/or employees controlled the premises located on or about 535 Kenmore Avenue, Tonawanda, New York.

9. That upon information and belief, and at all times hereinafter mentioned, Defendant, SPEEDWAY LLC, through its agents, servants and/or employees maintained the premises located on or about 535 Kenmore Avenue, Tonawanda, New York.

10. That upon information and belief, and at all times hereinafter mentioned, Defendant, SPEEDWAY LLC, through its agents, servants and/or employees regularly inspected the premises located on or about 535 Kenmore Avenue, Tonawanda, New York.

11. That on or about the 12th day of November, 2019, Plaintiff, ANTHONY J. FALCI, while lawfully on the premises on or about 535 Kenmore Avenue, Tonawanda, New York, was caused to slip and fall, thereby sustaining serious personal injuries.

12. That Plaintiff ANTHONY J. FALCI's injuries were caused by the negligence, lack of care, carelessness and recklessness on the part of the Defendant, SPEEDWAY LLC, its agents, servants and/or employees.

13. That said incident occurred through no fault or neglect on the part of the Plaintiff, ANTHONY J. FALCI herein contributing thereto.

14. That the aforementioned negligence of the Defendant, SPEEDWAY LLC, its agents, servants and/or employees includes but is not limited to: failure to properly maintain the subject premises in a reasonably safe condition; failure to inspect said premises; creating a hazardous condition; and that the Defendant, SPEEDWAY LLC, was otherwise careless and negligent in the premises.

16. That as a result of the aforesaid, the Plaintiff, ANTHONY J. FALCI, has been caused to sustain, among other things, serious, painful and permanent injuries in and about his head, arms, legs and body; in that he is incapacitated from his duties and responsibilities, all to his damage in an amount exceeding the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

WHEREFORE, Plaintiff, ANTHONY J. FALCI, demands relief in judgment on his behalf, and to receive damages on the allegations previously stated herein in an amount as may be just and proper based on the circumstances, together with the costs and disbursements of this action against the named Defendant; and for such other and further relief as to this Court may deem just and proper.

DATED: Buffalo, New York
October 5, 2020

ANDREWS, BERNSTEIN, MARANTO & NICOTRA, PLLC

By: /s/ Thomas P. Kotrys
Thomas P. Kotrys, Esq.
Attorneys for Plaintiff
420 Franklin Street
Buffalo, New York 14202
Telephone (716) 842-2200